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Eric D. Brill

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EXAMINER

JEAN GILLES, JUDE

ART UNIT

PAPER NUMBER

2443

NOTIFICATION DATE

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ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* ERIC D. BRILL and CHRISTOPHER A. MEEK

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Application No. 10/670,681  
Technology Center 2400

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Mailed: April 23, 2009

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Before Quita S. Gould *Supervisory Paralegal Specialist, Review Team*  
Gould, *Supervisory Paralegal Specialist, Review Team*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on January 21, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matters requiring attention prior to docketing.

**APPEAL BRIEF, CLAIMS APPENDIX**

A review of the Appeal Brief filed May 05, 2008 reveals that claims 1, 8 and 85 in the Claims Appendix of the Appeal Brief are not consistent with the claims in the last entered amendment filed on September 28, 2007. The copy of the claims should be in proper format and should not include any markings such as brackets or underlining except for claims in a reissue application in accordance with 37 CFR 41.37(c)(1)(viii).

Furthermore, the Claims Appendix cannot assume entry of After Final Submissions for which an Advisory Action (or other Office communication) has not advised of entry. *See also Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

Specifically, claims 1, 8 and 85, as provided in the Claims Appendix of the Appeal Brief, read:

**Claim 1:** A data analysis system, comprising: a first component associated with a server of the data analysis system that facilitates generation of a first data set related to web page information obtained via a communication system; and a second component that coordinates a second data set relating to web page information from at least one distributed resource associated with at least a client of the server which interacts with the communication system; the second data set is utilized to refine the first data set, wherein refining the first data set comprises **at least one of** adding unknown information to the first data set when new information is received from the distributed source via the second data set and updating existing information in the first data set when changes have occurred in the contents of the web page information as indicated by the second data set.

**Claim 8:** (Cancelled)

**Claim 85:** The system of claim **61**, the second component comprising a client of the distributed crawling system.

However, in the last entered Amendment dated September 28, 2007, claims 1, 8 and 85 read:

**Claim 1:** A data analysis system, comprising: a first component associated with a server of the data analysis system that facilitates generation of a first data set related to web page information obtained via a communication system; and a second component that coordinates a second data set relating to web page information from at least one distributed resource associated with at least a client of the server which interacts with the communication system; the second data set is utilized to refine the first data set, wherein refining the first data set **comprises adding** unknown information to the first data set when new information is received from the distributed source via the second data set or updating existing information in the first data set when changes have occurred in the contents of the web page information as indicated by the second data set.

**Claim 8:** The system of claim 1, the second component further utilized to compare the first data set and the second data set to detect spoof data retrieved by the first component.

**Claim 85:** **The system of claim, the** second component comprising a client of the distributed crawling system.

Appropriate correction of all claims provided in the Claims Appendix in proper format is required.

**APPEAL BRIEF, STATUS OF CLAIMS**

A review of the file finds that the status of the claims as provided in the Appeal Brief filed May 05, 2008 under the heading “Status of Claims” is not consistent with the status of claims of record in accordance with 37 CFR 41.37(c)(1)(iii). The status of the claims as provided in the Appeal Brief must be consistent with the last **entered** amendment. Each claim on appeal must be identified. *See also Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

A review of the last entered amendment finds that claims 8 is listed as original; whereas Appellant has improperly listed this claim as cancelled. Correction of the status of all claims is required.

**EXAMINER’S ANSWER, STATUS OF CLAIMS**

A review of the file finds that the status of the claims as provided in the Examiner’s Answer mailed September 04, 2008 under the heading “Status of Claims” is not consistent with the status of claims of record in accordance with 37 CFR 41.37(c)(1)(iii). The status of the claims as provided in both the Examiner’s Answer and the Appeal Brief must be consistent with the last **entered** amendment. Each claim on appeal must be identified. *See also Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

A review of the last entered amendment finds that claim 8 is listed as original; whereas the examiner has improperly listed this claim as cancelled. Correction of the status of all claims is required.

**CONCLUSION**

Accordingly, it is ORDERED that the application is returned to the Examiner to:

1. correction of the Claims Appendix of the Brief filed May 05, 2008;
2. to hold the Appeal Brief filed on May 05, 2008 defective;
3. notify Appellant to file a paper properly addressing the status of all claims;
4. to vacate the Examiner's Answer mailed September 04, 2008;
5. to generate a new Examiner's Answer setting forth the correct status of claims and to correct other sections of the Answer as may be required; and
6. for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

QG/kmf

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